

Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Renewed Request to Withdraw Finality of Office Action

Request was made on March 23, 2009 for withdrawal of finality of the Office Action dated January 23, 2009 to allow applicant to obtain entry of amendments as a matter of right. No response to that request has been received even though filed more than two months ago.

In the last Office Action, the Examiner introduced for the first time a rejection of claims 1-8 and 10 under 35 U.S.C. 101 as a new ground of rejection. According to the Examiner, applicant's last response necessitated this new ground of rejection. This is not correct.

Claim 1 prior to amendment read as follows:

1. A method of monitoring changes in an information set of wagers placed on the outcome of a sporting contest, the method comprising the steps of:
 - a. a principal entering into an agreement with a service provider to provide real time activity monitoring service,
 - b. the service provider monitoring a predetermined information set using at least one computer, and
 - c. the service provider providing a real-time alert message to the principal via a remote communications device (RCD) when a change occurs.

In the applicant's last reply, claim 1 was amended as follows:

1. (currently amended) A method of monitoring changes in an information set of wagers placed on the outcome of a sporting contest, the method comprising the steps of:
 - d. a principal entering into an agreement with a service provider to provide real time activity monitoring service of changes in an information set of wagers placed on the outcome of a sporting contest; [.]
 - e. the service provider monitoring a predetermined information set using at least one computer, and receiving real-time wagering data relating to the outcome of a sporting contest on a network of computers;
 - f. receiving instructions from a user specifying analysis criteria

including at least a target sporting contest, and nominated change in a wagering parameter within a nominated time period prior to the commencement of the target sporting contest which signifies the occurrence of a change in the wagering data significant to the user;

d. applying the user-specified analysis criteria to the real-time wagering data in real-time; and

e. the service provider providing causing a real-time alert message to be provided to the principal user via a remote communications device (RCD) when a change occurs upon the occurrence of the change in the nominated wagering parameter within the nominated time period prior to the commencement of the target sporting contest as real-time changes in the wagering data occur, the real-time notification directed to a remote communications device of the user.

As understood, the Examiner's basis for the rejection would have applied more so to claim 1 prior to amendment than after amendment.

Prior to amendment claim 1 recited "a principal entering into an agreement with a service provider to provide real time activity monitoring service" and after amendment claim 1 recited "entering into an agreement with a service provider to provide real time activity monitoring service of changes in an information set of wagers placed on the outcome of a sporting contest".

Prior to amendment claim 1 read "the service provider monitoring a predetermined information set using at least one computer" and after amendment claim 1 recited "receiving real-time wagering data relating to the outcome of a sporting contest on a network of computers; receiving instructions from a user specifying analysis criteria including at least a target sporting contest, and nominated change in a wagering parameter within a nominated time period prior to the commencement of the target sporting contest which signifies the occurrence of a change in the wagering data significant to the user; and applying the user-specified analysis criteria to the real-time wagering data in real-time".

Prior to amendment claim 1 read "the service provider providing a real-time alert message to the principal via a remote communications device (RCD) when a change occurs" and after amendment claim 1 read "causing a real-time alert message to be provided to the user via a remote communications device (RCD) upon the occurrence of the change in the nominated wagering parameter within the nominated time period prior to the commencement of the target

sporting contest as real-time changes in the wagering data occur, the real-time notification directed to a remote communications device of the user".

Clearly, the new ground of rejection based on 35 U.S.C. 101 did not arise from the amendments made to claim 1.

For at least the foregoing reasons the finality of the last Office Action should be withdrawn. An early indication of this had been requested as it impacts on what further amendments may be presented to advance this application to grant, but no response has yet been received to the earlier request. Applicant is entitled to an opportunity to address the new ground of rejection in the interest of fairness, and to amend the claims as deemed necessary to overcome the rejection. Accordingly, the amendments herein submitted should be entered as a matter of right.

Extension of Time

Moreover, a response to the earlier request should have been given and a new, non-final Office Action issued with resetting of the response period. Accordingly, an extension of time should not be needed in this case, but to be safe a provisional petition is made above to avoid any additional extension fees that might be imposed.

Specification and Claim Rejections - 35 USC § 112, First Paragraph

The specification has been objected to as allegedly failing to provide proper antecedent basis for the claimed subject, and claims 1-8 and 10 have been rejected as being indefinite for failing to comply with the written description.

In relation to the objections to the specification and the claim rejections under 35 USC § 112, terms objected to by the Examiner have been replaced with alternative phrases that are found in the specification as follows:

Term used currently:	Replaced with:	Used in Specification at:
Real time wagering data	Wagering information	Page 7, lines 13 to 26
User specifying analysis criteria	criteria	Page 8, line 1 to 2
Nominated change	change	Page 7, lines 4 to 12

A wagering parameter	Wagering information	Page 7, lines 13 to 26
A nominated time period	Discrete time step	Page 2, line 30 to page 3, line 2
Nominated wagering parameter	Wagering information	Page 7, lines 13 to 26

It is submitted that all of the terms used in the amended claims are supported by the specification and are understandable to a person having ordinary skill in the art.

Claim Rejections - 35 USC § 112, Second Paragraph

In relation to the objections to the claim rejections under 35 USC § 112, second paragraph, the amendments made to the claims also address the items raised by the Examiner and thus the rejection is now moot.

Claim Rejections - 35 USC § 101

Claims 1-8 and 10 have been rejected because the claimed invention allegedly is directed to non-statutory subject matter. This is not correct. Issue is taken with the Examiner's contention that the method of the claims is not limited to implementation on a particular machine (a network of computers and an associated output service). In addition, the claimed method also involves data transformation.

Regarding the Examiner's comments in relation to *Benson*, the claimed method could not be effected without the network of computers and the associated output service. Therefore, the use of the specific machine does impose a meaningful limit on the scope of the claim. The machine(s) are also integrally involved in the steps of the method that they must therefore amount to more than "insignificant post solution activity" again because without the particular machines(s) used, the method could not be implemented.

The Examiner further contends that "all of the recited steps can be performed by the user themselves, in the mind of the user or between different users through writing by a user." It is relatively clear from this statement that the Examiner has misunderstood what is being claimed. The claimed method is directed to advising a user of the occurrence of an event that the user has defined in a particular discrete time step prior to the start of a sporting contest as soon as the event occurs or in real time.

Moreover, the recited method involves the receipt of instructions on a network of computers, which clearly cannot be done by the user.

A user performing the steps of the method himself or herself would be dependent upon the information that is being reflected in the change of the tote, as explained on page 2, line 26 onwards of the specification. If the user waited for the tote to be updated, then they are acting on information that all other users have. The claimed method is directed to issuing a real time alert message to the user upon the occurrence of the event within a discrete time step rather than at the end of the discrete time period in order to allow the user to act on information that is not available to the general public from the tote information.

Therefore, a user performing the method himself or herself has access only to the tote information released at the end of discrete time steps not information at to the wagering changes within the discrete time step, and therefore could not perform the claimed method.

Claim Rejections - 35 USC § 102

Claims 1-8 and 10 have been rejected as being anticipated by or unpatentable over US 2002/00099648 (Ginsberg et al.).

The comments above in relation to the rejection under 35 USC § 101 apply equally to distinguish the claimed subject method from the methodology of the cited reference. The proposition that warnings can be set by the client in paragraph [0062] of Ginsberg relate to warnings about the amount wagered by the client, not in relation to a designated sporting contest. This is also reflected in claim 41 of Ginsberg which relates to sending a warning to the client once the client has exceeded their preset value of funds wagered. This warning is used to prevent a client placing a wager in the Ginsberg system. These do not relate to the changes in information relating to the outcome of a sporting event as defined in step b of claim 1 of the present application.

Finally and as discussed previously, the claimed method requires that a user define the criteria that define(s) a change which is significant to the user. This can be viewed as a "set and forget" method rather than an interactive system as the Ginsberg reference teaches.

In the Ginsberg system, the client is online whether through a physical connection on a computer or a PDA for example and watches the changes in the wagering data themselves. When an event occurs that they are interested in, the client can place a wager on the outcome of an event. If the wager breaches one of the client's preset parameters for betting, then an alert of this is issued to the client and the wager is blocked. Therefore, the Ginsberg system requires the client's attention at all times when it is being used in order to take advantage of the system as the "warnings" do not relate to the wagers placed on the outcome of the sporting contest but rather to the wager limitations of the client.

According to Ginsberg, the client therefore does not specify criteria including a sporting contest and a change in the wagering information of significance to the client for the purposes of alerting the client to the occurrence of that change as occurs in the claimed method, but rather to prevent the client wagering outside of preset limits.

Ginsberg does not teach a "set and forget" system for watching for a change in a set of wagering information, but rather a set and forget system for preventing a client from betting too much. The client must still watch the wagering data and decide for themselves when an event of significance to them occurs. This means that if an event takes place when they are not watching the data, the event can be missed and the opportunity lost to the client, because the alerts and warnings of Ginsberg are expressly for purposes different to the purpose of the claimed method and therefore monitor different information.

The claimed method is a set and forget watching service rather than an interactive wagering method which requires the client's attention and issues alerts or warnings when wagering amounts reach a predetermined maximum for the protection of the client.

There is a clear distinction between Ginsberg offering a system to monitor the potential that a client may wager beyond their resources on events that are chosen by the client and warn them if they are going to exceed their resources, and a system that automatically advises a user when to place a bet based on criteria that the user has set in relation to a change in information relating to wagers placed by others on a particular event.

As mentioned above, Ginsberg does not alert the client to situations whereby the client can use information not yet available to the general public but to their own

wagering situation only. This difference in purpose is clearly identified in step c of claim 1 of the present application and the portions identified by the Examiner in Ginsburg.

The dependent claims recite still further features not found in a combination similar to that claimed. Inasmuch as the dependent claims are allowable for at least the same reasons as the claims from which they depend, the Examiner's comments in respect thereof need not be addressed and this should not be construed to be an acquiescence in the contentions made by the Examiner.

Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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